

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Glen VAN DATTA et al.
Serial No. : 10/701,302
Filed : November 3, 2003
For : MULTIPLE PEER-TO-PEER RELAY NETWORKS
Art Unit : 2493
Examiner : Chau D. Le
Confirmation No. : 5239

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request a Second Pre-Appeal Brief Conference for review of the Final Rejection mailed October 6, 2010 in the above-captioned application, in accordance with the July 12, 2005 Notice in the USPTO Official Gazette. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. Please consider the reasons stated herein.

I. REASONS FOR REQUEST

Applicants request a Pre-Appeal Brief Conference to review the following rejections:
Claims 1, 2, 7, 9-13, and 16-26 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Pat. App. Publ. No. 2002/0184310 of Traversat et al. ("Traversat") in view of *Federated Grids and their Security* ("Fox");

Claim 8 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Traversat, Fox, and further in view of U.S. Pat. No. 7,240,093 to Danieli et al. ("Danieli"); and

Claims 14 and 15 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Traversat, Fox, and further in view of U.S. Pat. No. 6,487,600 to Lynch.

II. ARGUMENTS

A. **FOX DOES NOT DESCRIBE A FIRST PEER HAVING A CONNECTION TO A SECOND PEER IN A FIRST P2P NETWORK AND NOT HAVING A CONNECTION THE SAME PEER IN A SECOND P2P NETWORK**

Claim 1 is representative and recites, *inter alia*:

"wherein the first particular peer system has a connection to the second particular peer in the first peer-to-peer relay network and the first particular peer system does not have a connection to the second particular peer in the second peer-to-peer relay network"

The main reference of Traversat describes groups in a P2P network. The Office Action points to Traversat FIG. 33 as showing two P2P networks, 210A and 210B, each having first particular peer 200A and second particular peer 200B. However, Traversat explicitly states, "[p]eer member 200A and peer member 200B may access services provided by both peer group 210A and peer group 210B." Traversat, par. [0130] (emphasis added), *See, also*, Traversat, par. [0131]. That is, in Traversat the particular first and second peers each have access to the services in both peer groups 210A, 210B. This is a feature of Traversat.

However, claim 1 of the present application requires the first particular peer to have a connection to the second particular peer in the first P2P network but not in the second P2P network.

To cure the deficiency in Traversat, the Office Action attempts to combine Fox with Traversat. Fox describes, in relevant part, overcoming issues involved in creating "virtual Grids"

out of specific Grid installations. (Fox, Introduction). Fox describes a Grid installation as a set of resources.

The Office Action points to Fox, FIG. 2 and the description on pages 9-10. The Office Action appears to equate resources controlled by Grid Router GR1 and resources controlled by Grid Router GR2 with the present claim 1 elements of the first P2P relay network and the second P2P relay network, respectively. Further, the Office Action asserts Fox Resources R2 and R4 correspond to the present claim 1 elements of the particular first peer and particular second peer, respectively.

It is asserted in the Office Action, at page 5 (referring to Fox), “. . . Resources R4 and R2 belong to both relay networks controlled by Grid Router GR1 and GR2.” The Office Action then includes vague statements about what might be done, asserting “. . . privileges and security walls can allow access between R4 and R2 through one grid router but not the other [grid router(?)]. . .” The assertion is a mere conclusory statement that is not, without impermissible hindsight, supported by the description in Fox.

Moreover, nowhere in Fox is there a description that Resource R2 has access to Resource R4 through Grid Router GR2 and Resource R2 does not have access to Resource R4 through Grid Router GR1. Without impermissible hindsight, a *prima facie* case of obviousness cannot be made out from the description in Fox as to how the “privileges and security walls” are used to accomplish the task not accomplished by the Grid Routers and required by the elements of claim 1 in the present application.

Lynch does not add the element missing from Traversat and Fox

**B. NO PRIMA FACIE CASE OF OBVIOUSNESS CAN BE
MADE BECAUSE THE PROPOSED MODIFICATION
OF TRAVERSAT WITH FOX CHANGES THE
PRINCIPLE OF OPERATION OF TRAVERSAT**

MPEP 2143.01 (VI): “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).” (emphasis added).

In Traversat, the members of a peer group each have access to the services within the group. Thus, in Traversat FIG. 33, cited in the Office Action, both peers 200A, 200B are members of both peer groups 210A and 210B. As such, “[p]eer member 200A and peer member 200B may access services provided by both peer group 210A and peer group 210B.” Similarly, both peer members 200C, 200D are members of both peer groups 210A and 210C. As such, “[p]eer member 200C and peer member 200D may access services provided by peer group 210A and peer group 210C.” Traversat, pars. [0130]-[0131] and FIG. 33. Thus, it is the intent of Traversat to establish peer groups such that peer members in the group “share a set of network services and content.” Traversat, Abstract.

It is argued in the Office Action, at page 5, that Fox’s Resource R2 has access to Resource R4 through one Grid Router but not through another Grid Router. However, even accepting, *arguendo*, that such is the case, this lack of access would destroy the function of Traversat, which explicitly states that peers in a group share the resources of the group.

Thus, if Fox’s Resources R2, R4 are both members of the groups controlled by Grid Router GR2 and GR1, Traversat would require that both Resources R2 and R4 “share a set of network services and content” of both GR2 and GR1. If Fox is applied as asserted in the Office Action, then a particular Fox Resource would not have access to the services of a group in which

the Resource is a member. This is contrary to the teaching of Traversat wherein the peer members in a group “share a set of network services and content” of the group.

For either or both of the reasons discussed above, claim 1 of the present application is believed patentable over Traversat, Fox, and Lynch

Independent claims 7, 18, 21, and 24 are believed patentable for substantially the same reasons as discussed above with respect to claim 1.

Respectfully submitted,

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